Arkansas State Board of Chiropractic Examiners

Rules, Regulations, and Statutes

101 East Capitol Ave., Suite 209, Little Rock, Arkansas 72201
P: (501) 682-9015 F: (501) 682-9016 www.arkansas.gov/asbce ASBCE@arkansas.gov

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ARKANSAS STATUTES CHIROPRACTIC SECTION

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17-81-101. Title. -This chapter shall be known as the "Arkansas Chiropractic Practices Act." [Acts 1971, No.706, §1; A.S.A. 1947, §72-415.]

17-81-102. Definitions. -As used in this chapter, unless the context otherwise requires:

(1) 'Analysis' includes physical examination, the use of X-ray and other analytical instruments, and procedures generally used in the practice of chiropractic;

(2) 'Board' means the Arkansas State Board of Chiropractic Examiners;

(3) 'Chiropractic' means that science and art which utilizes the inherent recuperative powers of the body and deals with the relationship between the nervous system and the spinal column, including its immediate articulations, and the role of its relationship in the restoration and maintenance of health;

(4) 'Chiropractic aide' means an unlicensed member of the chiropractic team who may assist a chiropractic physician in the performance of those procedures and techniques constituting the practice of chiropractic as defined in this chapter with the exception of spinal manipulation and adjustment, provided that such assistance shall be performed under the direct supervision of a licensed chiropractic physician.

(5) 'Physician' means a person authorized or licensed to practice medicine pursuant to the Arkansas Medical Practice Act, §§ 17-95-201 – 17-95-207, 17-95-301 – 17-95-305, and 17-95-401 – 17-95-411, a person authorized or licensed to practice chiropractic pursuant to the provisions of this chapter, and a person authorized to practice osteopathy pursuant to §17-91-101 et seq.;

(6) (A) 'Practice of chiropractic' means the engagement in the diagnosis and analysis of any interference with normal nerve transmission and expression, and the procedure preparatory to and complementary to the correction thereof by an adjustment of the articulations of the vertebral column, its immediate articulations, including spinal adjustments, spinal manipulations and spinal mobilizations, such as any type of pressure, force, thrust or passive movement, singular or plural, applied to the spinal vertebrae or their adjacent articulations by hand or mechanical device or by other incidental adjustments, for the restoration and maintenance of health. The practice of chiropractic includes therapy, the normal regimen, and rehabilitation of the patient for the purpose of removing any injury, deformity or abnormality of human beings without the use of drugs or surgery.

(B) The practice of chiropractic, as authorized under the provisions of this chapter, shall not include the performance of the duties of a midwife or obstetrician, therapy by the use of ionizing radiation, incisive surgery, prescribing for or administering to any person any drug to be taken internally, or puncturing the skin for the purpose of introducing any substance into the body. Nothing herein shall prevent puncturing the skin for routine blood analysis, including red blood count, white blood count, differential and serology, in the practice of chiropractic for diagnostic purposes;

(7) 'Spinal manipulation' and "adjustment" mean the skillful or dexterous treatment whereby a corrective force or passive movement of the joint is made to realign vertebrae or articulations to their normal juxtaposition;

17-81-103. Effect on existing licenses. -Nothing in this chapter shall be construed to invalidate or affect the license of any person holding a valid unrevoked or unsuspended license to practice chiropractic in this state on July 19, 1971. Persons holding valid licenses shall be subject to all provisions of this chapter except as provided in this chapter. [Acts 1971, No. 706, §15; A.S.A. 1947, §72.429].

17-81-104. False advertising. -No person defined in §17-81-102(5) as a physician may solicit for patronage or advertise for patronage by any means, whatever which is misleading, fraudulent, deceptive or dishonest. [Acts 1971, No.706, §20; 1981, No.568, §1; A.S.A. 1947, §72-434].

17-81-105. Prosecution of violations.

(a) Subject to reasonable prosecutorial discretion, it is the duty of the prosecuting attorneys of the State of Arkansas to prosecute to final judgment every criminal violation of this chapter committed within their jurisdictions when requested and authorized by the Arkansas State Board of Chiropractic Examiners.

(b) **(1)** The board may also take administrative action against a person that violates this subchapter, §5-37-505, or § 5-37-506.

(2) Upon a finding that a chiropractic physician has violated this subchapter, §5-37-505, or §5-37-506, the board may order:
(A) Sanctions;
(B) A license suspension; or
(C) A license revocation.

(c) The board has immunity from civil liability for any requested prosecutorial action resulting from this section. [Acts 1971, No. 706, § 23; A.S.A. 1947, § 72-437; Acts 2013, No. 513, § 2].

17-81-106. Health and police regulations applicable. -Chiropractic practitioners licensed under this chapter shall be bound by all applicable health and police regulations of the State. They shall be qualified to sign death certificates, insurance certificates, and all other certificates pertaining to public health with like effect as other licensed physicians. [Acts 1971, No. 706, §19; A.S.A. 1947, §72-433].

17-81-107. Use of a procurer.

(a) As used in this section:

(1) **(A)** "Procurer" means a person or entity who for pecuniary benefit procures or attempts to procure a client, patient, or customer by directly contacting the client, patient, or customer in person, by telephone, or by electronic means at the direction of, request of, employment of, or in cooperation with a chiropractic physician.

(B) "Procurer" does not include a provider or a person that procures or attempts to procure a client, patient, or customer for a provider through public media or a person that refers a client, patient, or customer to a provider as otherwise authorized by law; and

(2) "Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards, and mailed or electronically transmitted written or visual communications that do not involve in-person or direct contact with specific prospective clients, patients, or customers.

(b) A chiropractic physician who uses a procurer is required to:

(1) Have a written contract with the procurer or procurement company with whom the chiropractic physician engages; and

(2) Register the name of any procurer with whom the chiropractic physician contracts with the Arkansas State Board of Chiropractic Examiners. [Acts 2013, No. 513, § 3].

17-81-108. Rulemaking and enforcement. -The Arkansas State Board of Chiropractic Examiners shall establish rules to enforce the requirements of this chapter. [Acts 2013, No. 513, § 3].

17-81-201. Creation -- Members -- Appointment.

(a) The Arkansas State Board of Chiropractic Examiners is established.

(b) (1) The board shall be composed of seven (7) members appointed by the Governor subject to confirmation by the Senate for terms of five (5) years.

(2) (A) Five (5) members shall be qualified chiropractors.

(B) The Governor shall consult the Arkansas Chiropractic Physicians Association before making an appointment under this subdivision (b)(2).

(3) Two (2) members of the board shall not be actively engaged in or retired from the profession of chiropractic. One (1) shall represent consumers, and one (1) shall be sixty (60) years of age or older and shall be the representative of the elderly. Both shall be appointed from the state at large subject to confirmation by the Senate. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations.

(c) When a vacancy occurs on the board for any reason, the vacancy may be filled by appointment by the Governor for the unexpired term. Vacancies of professional members may be filled from a list of three (3) names of qualified chiropractors submitted by the various chartered chiropractic state organizations. [Acts 1971, No. 706, § 4; 1975 (Extended Sess., 1976), No. 1080, § 1; 1977, No. 113, §§ 1-3; 1979, No. 761, § 1; 1981, No. 717, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-617 -- 6-619, 6-623 -- 6-626, 72-418; reen. Acts 1987, No. 869, § 1; 1999, No. 1553, § 2; 2015, No. 1100, § 30].

17-81-202. Members -- Qualifications.

(a) Each member of the Arkansas State Board of Chiropractic Examiners shall be a citizen of the United States, a resident of this state, and shall, before entering upon the duties of the office, take the oath prescribed by the Arkansas Constitution for state officers and shall file it with the Secretary of State who shall thereupon issue to each person so appointed a certificate of appointment.

(b) Each professional member shall possess the following additional qualifications:

(1) The member must be a graduate of a reputable school or college of chiropractic. However, no more than two (2) members of the board shall be graduates of the same school or college of chiropractic; and

(2) The member must have been a regularly licensed and practicing chiropractor in Arkansas for a period of five (5) years next preceding the date of his appointment. [Acts 1971, No. 706 §5; 1979, No. 760, §1; 1981, No. 51, §1; A.S.A. 1947, §72-419.]

17-81-203. Members -- Liability. - No member of the Arkansas State Board of Chiropractic Examiners, during the term of his or her office or thereafter, shall be liable for damages as a result of any official act in the performance of his or her duty as such member. Any action therefore shall upon motion be dismissed with prejudice at the cost of the plaintiff. [Acts 1971, No. 706, §24; A.S.A. 1947, §72-438].

17-81-204. Organization -- Meetings.

(a) The Arkansas State Board of Chiropractic Examiners shall maintain and operate an office for the administration of its business.

(b) It shall meet in July of each year and from its members elect a president, secretary and treasurer. The officers so elected shall hold office for a period of one (1) year or until their successors are elected and have qualified.

(c) (1) It shall be the duty of the board to meet regularly once in every six (6) months for the purpose of conducting the business of the board.

(2) Special meetings of the board may be called at any time at the pleasure of the president or by the secretary on the request of any two (2) members of the board.

(3) Four (4) members shall constitute a quorum at any meeting of the board.

(d) The board shall determine by its own rules the time and manner of giving notice to its members.

(e) Any action of the board, except the issuance of a temporary license, shall require an affirmative vote of the majority of the full membership of the board. [Acts 1971, No. 706, §§6, 7; 1981, No.51, §3; A.S.A. 1947, 72-420, 72-421; Acts 1987, No. 354, §3; 1989 (3rd Ex. Sess.), No. 30, § 2].

17-81-205. Minutes -- Records.

(a) The Executive Director of the Arkansas State Board of Chiropractic Examiners shall keep a record of the minutes of the meetings of the board and a record of the names of all persons making application for license under the provisions of this chapter together with a record of the action of the board thereon.

(b) The Executive Director shall also keep a roll of the names of all licensed and deceased chiropractors who have been licensed to practice in the State of Arkansas.

(c) The record shall at all reasonable times be open for public inspection. [Acts 1971, No.706, §8; A.S.A. 1947, §72-422; Acts 1999, No. 1553, § 3].

17-81-206. Duties and powers.

(a) (1) The Arkansas State Board of Chiropractic Examiners is empowered to incur whatever expenses it may deem necessary or expedient in performing its functions. It may employ whatever assistants it may deem necessary or expedient therefore and fix their compensation.

(2) Each member of the Board may receive expense reimbursement and stipends in accordance with §25-16-901 through 908.

(3) All of the disbursements provided for in this section shall be out of the fees and fines collected by the Board.

(b) The Board is authorized to:

(1) Promulgate suitable rules and regulations for carrying out its duties under the provisions of this chapter;

(2) Sue and be sued;

(3) Have an official seal, which shall bear the words "Arkansas State Board of Chiropractic Examiners";

(4) Provide a secretary's certificate. The certificate of the Secretary of the Board under seal shall be accepted in the courts of the state as the best evidence as to the minutes of the board and shall likewise be accepted in the courts of the state as the best evidence as to the registration and non-registration of any person under the requirements of this chapter.

(5) Adopt and, from time to time, revise such rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of this chapter;

(6) Cause the prosecution of all persons violating this chapter and have powered to incur necessary expenses therefore;

(7) Keep a record of all its proceedings;

(8) Employ such persons as may be necessary to carry out the work of the Board, who shall have their duties and compensation prescribed by the Board within appropriations for that purpose;

(9) Fix the time for holding its regular meetings for the examination of applicants;

(10) Examine, license and renew the licenses of duly qualified applicants. The Board shall have exclusive jurisdiction to determine who shall be permitted to practice chiropractic in the State of Arkansas;

(11) Conduct disciplinary proceedings as provided in this chapter.

(c) (1) In the performance of its duties, the Board is empowered to issue subpoenas and thereby compel the attendance of persons before it for the purpose of examining into any facts or conditions properly pending before the board for its action.

(2) All subpoenas issued by the Board shall be served in the manner prescribed by law for the service of subpoenas issuing from the courts, and all persons so served shall obey the subpoenas or be subject to the penalties provided by law for the disobedience of subpoenas issuing from the courts.

(3) All persons subpoenaed by the Board are entitled to their pay and mileage and shall have all the other rights now provided by law for persons served with subpoenas issuing from the courts.

17-81-207. Executive Director.

(a) Pursuant to its authority set forth in Section 17-81-206(b)(8), the Board may employ an Executive Director to maintain and operate its office pursuant to its directions.

(b) (1) The Executive Director in consultation with and review of the Board Treasurer shall collect all fees and fines on behalf of the Board and submit all payment requests on behalf of the Board for its state appropriations.

(2) The Executive Director shall give in writing at the annual meeting of the Board a fully itemized report of his receipts and disbursements for the preceding year showing the amount of money on hand and shall submit reports for inspection at other times as may be requested by the board or by any of it members.

(3) Copies of the annual reports, actions of the Board, examinations, and number licensed for the year, certified by the Secretary of the Board, shall be submitted by the Executive Director to the various chiropractic professional organizations in Arkansas.

17-81-208. Disposition of funds.

(a) All fees and fines authorized by this chapter are the property of the Arkansas State Board of Chiropractic Examiners and shall be paid to the office of its Executive Director who shall collect and dispose of such funds on behalf of the Board as provided in this chapter. Any surplus in the treasury of the Board at the end of the fiscal year shall remain in the treasury and may be expended in succeeding years for the purposes herein set out.

(b) All funds received by the Board shall be expended in the furtherance of the purposes of this chapter and the Board's duties thereunder, which include, but are not limited to:

(1) The publication and distribution of the Arkansas Chiropractic Practices Act, § 17-81-101 et seq.;
(2) The publication and yearly distribution of a directory of all licensed chiropractic practitioners;
(3) Investigations of violations of this chapter;
(4) Institution of actions to compel compliance with the provisions of this chapter; and
(5) Defense of actions brought against it as a result of its actions under the provisions of this chapter. [Acts 1971, No. 706 §18; A.S.A. 1947, §72-432; Acts 1999, No. 155., § 6].

17-81-301. License required. -- In order to safeguard life and health, any person practicing or offering to practice chiropractic in the State shall be required to submit evidence that he or she is qualified to practice and shall be licensed as provided in this chapter. [Acts 1971, No. 706, §2; A.S.A. 1947, §72-416; Acts 2001, No. 197, § 1].

17-81-302. Exempted activities. -- Nothing herein shall be construed to prohibit or to require a license hereunder with respect to any of the following acts:

(1) The performance of services in case of an emergency;

(2) The performance of services in this state on an occasional basis, limited to ninety (90) days in each calendar year, by a chiropractor lawfully practicing chiropractic in another

state or territory. However, if any such chiropractor performs services on a regular basis, or for his regular use maintains or is provided with any office or other place to meet persons for the performance of such services in the State of Arkansas, he shall obtain a license to practice chiropractic in the State of Arkansas; or

(3) The practice of medicine and surgery, osteopathy, dentistry, podiatry, optometry, Christian Science, physical therapy, cosmetology, therapy technology, or any other branch of the healing arts as defined by the laws of this State as now or hereafter enacted, it not being intended by this chapter to limit, restrict, enlarge or alter the privileges and practices of any of these professions or branches of the healing arts. [Acts 1971, No. 706, 26; A.S.A. 1947, §72-440; Acts 1999, No. 1553, § 7].

17-81-303. Unlawful practice -- Penalty -- Injunction.

(a) Any person who practices or attempts to practice chiropractic, as defined in this chapter, or use any sign, card, or device to indicate that the person is a professional licensed doctor of chiropractic without having first been licensed or otherwise permitted under the provisions of this chapter to do so shall be guilty of a misdemeanor. Upon conviction, he or she shall be punished by fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail for a period of not less than one (1) month nor more than eleven (11) months, or by both fine and imprisonment. Each day shall constitute a separate offense.

(b) The courts of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of chiropractic in a proceeding by the board or any member thereof, or by any citizen of this state, in the county in which the alleged unlawful practice occurred or in which the defendant resides, or in Pulaski County. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter, but the remedy of injunction shall be in addition to liability to criminal prosecution.

(c) (1) It is unlawful for any person other than a physician licensed to practice chiropractic under the provisions of the Arkansas Chiropractic Practices Act, §17-81-101 et seq., or a physician licensed to practice medicine under the Arkansas Medical Practices Act, which begins at §§17-95-201 et seq., 17-95-301 et seq., and 17-95-401 et seq., to perform spinal mobilizations, spinal adjustments, or spinal manipulations as those terms are defined in §17-81-102(7).

(2) Nothing contained in this subsection shall be construed to limit or restrict the authority of a licensed physical therapist to practice physical therapy as defined in §17-93-102(6).

(3) Any person violating the provisions of this subsection shall be guilty of a violation and upon conviction shall be punished by a fine of not more than five thousand dollars ($5000), and each violation shall constitute a separate offense. [Acts 1971, No. 706, §§2, 14, 22; A.S.A. 1947, §72-416, 72-428, 72-436; Acts 1987, No. 50 §§1, 2; 1987, No. 354, §9].

(d) (1) If the Arkansas State Board of Chiropractic Examiners determines after due notice and a hearing that any provision of this chapter or any regulation promulgated by the Board pursuant to this chapter has been violated, the Board may impose a civil penalty not to exceed five thousand dollars ($5000) per violation.

(2) (A) The Board may file an action in the Pulaski County Circuit Court to collect any civil penalty not paid within thirty (30) days of service of the order assessing the penalty, unless the circuit court enters a stay of the Board's order.

(B) If the Board prevails in the action, the defendant shall be directed to pay reasonable attorney's fees and costs incurred by the Board in prosecuting the action in addition to the civil penalty.

(3) Any person aggrieved by an action of the Board imposing civil penalties may appeal the decision in the manner and under the procedure prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for appeals from administrative decisions.

17-81-304. Application -- Fees.

(a) (1) (A) Applications for license to practice chiropractic in the State of Arkansas shall be made to the Executive Director of the Arkansas State Board of Chiropractic Examiners in writing on forms furnished by the Board.

(B) The application shall be signed by the applicant in his or her own handwriting and acknowledged before an officer authorized to administer oaths.

(2) The applicant must submit proof, satisfactory to the Board, of graduation from a chartered school or college of chiropractic as herein described and file with his or her application the affidavits of at least two (2) licensed and reputable doctors of chiropractic showing him or her to be of good moral character.

(3) The application shall be accompanied by payment of one hundred fifty dollars ($150) and fifty dollars ($50.00) for an orientation fee.

(4) The application shall be filed with the Executive Director not less than forty-five (45) days before the next regular meeting of the Board.

(b) If the applicant is approved, no part of the fee shall be returned and he or she shall be issued a license to practice chiropractic in accordance with the provisions of this chapter.

(c) If the applicant is not approved, he or she shall be notified the reasons of the disapproval.

17-81-305. Qualifications of applicants.

(a) To qualify for licensure, an applicant shall:
   (1) Be at least twenty-one (21) years of age;
   (2) Have successfully completed not less than a minimum of sixty (60) semester credit hours of college education, to include a minimum of thirty (30) semester credit hours in the field of science;
   (3) Not have had a license to practice chiropractic in any other state suspended or revoked nor have been placed on probation for any cause;
   (4) Possess a valid 'Doctor of Chiropractic' degree from a chiropractic institution whose requirements include a course of instruction of not less than four (4) years of nine (9) academic months each or not less than four thousand four hundred (4,400) fifty-minute

resident class hours and include one hundred twenty (120) classroom hours of physiological therapeutics;

(5) Possess a valid National Board of Chiropractic Examiners certificate, to include Parts I, II, III, and IV and the physiological therapeutics section;

(6) Be of good moral character;

(7) Not have been convicted of a felony; and

(8) Not be an habitual user of intoxicants, drugs, hallucinatory preparations;

(9) Pay the application fee as provided in § 17-81-304; and

(10) Cause a certified chiropractic college transcript or National Board transcript to be submitted directly from the respective institutions.

(b) An applicant graduated, as of July 19, 1971, from a school or college of chiropractic, the requirements and course of instruction of which were equal and comparable to other recognized schools or colleges of chiropractic at the time of his or her attendance, may be acceptable.

(c) For students enrolled in any approved chiropractic school or college which may not, at the passage date of this act, meet the requirements as set forth in subdivision (a)(4) of this section, the Arkansas State Board of Chiropractic may waive the requirement in individual cases at its discretion.

17-81-306. Examination. Repealed.

17-81-307. Issuance and recording of licenses.

(a) The Arkansas State Board of Chiropractic Examiners shall issue licenses to all applicants who have been approved, paid all the required fees, and gained a satisfactory grade on examination, with a general average of seventy-five percent (75%) with no subject falling below sixty percent (60%).

(b) (1) Each person receiving a license from the Board, prior to practicing chiropractic, shall have the certificate recorded in the office of the county clerk of the county where he proposes to practice.

(2) When the licensee moves to another county for the purpose of continuing the practice of chiropractic, he or she shall file for record, with the county clerk of the county to which he or she moves a certified copy of his license

(3) The fee for each recording of each license shall be two dollars ($2.00).

(4) Each licensee shall display conspicuously in his or her principal place of business or place of employment the license issued by this Board. The annual renewal certificate shall be displayed in connection with the original license. [Acts 1971, No. 706, §10; A.S.A. 1947, 72-424; Acts 1987, No. 354, §7].

17-81-308. Temporary licenses.

Upon satisfactory evidence being submitted to the Arkansas State Board of Chiropractic Examiners as to an applicant's ability and integrity and when no regular examination will be held within thirty (30) days from the date of an application for a temporary license, the board may, if approved by at least two-thirds

(2/3rds) of the membership of the board, issue to the applicant a permit to practice until the next regular meeting of the board. [Acts 1971, No. 06, §12; A.S.A. 1947, §72-426.]

17-81-309. Reciprocity. Repealed.

17-81-310. Orientation class.

(a) The Arkansas State Board of Chiropractic Examiners is authorized to conduct an orientation class for all new licensees.

(b) The Board is authorized to include in the orientation class instruction relating to office procedures, the filing of insurance claims, and such other matters as the Board may deem necessary or appropriate to equip new licensees to establish and maintain a practice and to effectively and efficiently operate and manage their offices and other facilities related to their practice of chiropractic practice.

17-81-311. Renewal -- Fee.

(a) (1) The Arkansas State Board of Chiropractic Examiners may charge an annual renewal fee not to exceed three hundred dollars ($300) for the license. However, in its discretion, the Board may set the renewal fee for license holders not practicing in this state or for those inactive, at a lower fee than for those practicing in this state.

(2) The Board may waive the renewal fee for all licentiates who are serving in the armed service at the time the fee is due.

(b) If the license renewal fee is not paid January 1 of each year or within sixty (60) days from the mailing of notice by the board, whichever is the later date, the license shall automatically expire and be forfeited. The license can only be reinstated upon payment of all sums due, and in its discretion, the board may assess the delinquent holder an additional sum as a penalty.

(c) A renewal fee will be considered 'paid' pursuant to this section if it is received in the Board Office or postmarked on or before the date the fee is due. If a license expires and is forfeited because the renewal fee is not paid on time, the license may be reinstated upon payment of the delinquent fee due, payment of a penalty of two hundred dollars ($200) and complying with the continuing education requirement of §17-81-312.

(d) Failure of the licensee to receive the renewal form shall not relieve him of the duty to renew his license and pay the fee required by this chapter.

17-81-312. Renewal -- Education requirement.

(a) The Arkansas State Board of Chiropractic Examiners shall not renew the license of any person actively engaged in practice within the State of Arkansas unless the person presents to the Board evidence of attendance, during the preceding twelve (12) months, at:

(1) An approved educational session or sessions of not less than twenty-four (24) hours duration conducted by an approved chiropractic institution of learning, or by some association approved by the board for the teaching of chiropractic philosophy and

scientific courses pertaining to the profession; or

(2) An educational course conducted by the board.

(b) (1) The board may waive the requirement upon being presented a certificate from the doctor in charge that the license holder was physically unable on account of sickness or injury, or upon a showing that the license holder was in military service, when the course was conducted within this state during the preceding twelve (12) months.

(2) The board may waive the requirement for any other valid reason.

(3) Any person who is initially licensed in January shall be required to complete twenty-four (24) hours of continuing education by December of that year, and each year thereafter comply with subdivision (a)(1) of this section.

(4) Any person who is initially licensed in July shall submit a certificate of attendance of a minimum of twelve (12) hours of continuing education program approved by the Board. Each year thereafter the doctor shall submit a certificate of attendance of completion of twenty-four (24) hours of continuing education seminars by December 31 of each year.

(c) The presentation of a fraudulent or forged evidence of attendance at an educational session shall be a cause for suspension or revocation of the holder's license. [Acts 1971, No.706, §11; 1981, No. 51, §4; A.S.A. 1947, §72-425.]

17-81-313. Disciplinary proceedings -- Revocation or suspension.

(a) The Arkansas State Board of Chiropractic Examiners shall have sole authority over licensed chiropractors to levy a civil penalty of not more than five thousand dollars ($5,000) nor less than one thousand dollars ($1000) for each violation, to deny, place under probation, suspend, or revoke any license to practice chiropractic issued by the Board or applied for in accordance with the provisions of this chapter or otherwise to discipline a licensee upon proof that the person:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice chiropractic;
(2) Is guilty of crime or gross immorality;
(3) Is unfit or incompetent by reason of negligence, habits or other causes;
(4) Is habitually intemperate or is addicted to the use of habit-forming drugs;
(5) Is mentally incompetent;
(6) Is guilty of unprofessional conduct;
(7) Is guilty of fraud or deceit in filing insurance forms, documents or information pertaining to the health or welfare of a patient; or
(8) Has willfully or repeatedly violated any of the provisions of this chapter.

(b) Proceedings under this section shall comply with the Arkansas Administrative Procedures Act, beginning at §25-15-201 et seq.

17-81-314. Reinstatement.

(a) A chiropractic license, which has been revoked for repeated violation of any of the causes enumerated in 17-81-313, shall not be eligible for reinstatement.

(b) (1) A license, which has been suspended, may be reinstated upon expiration of the period of suspension and upon satisfactory assurance of proper conduct, by notarized statement of intent, by the suspended licensee.

(2) The statement of intent shall be filed with the Secretary of the Arkansas State Board of Chiropractic Examiners at least thirty (30) days before the expiration of the period of suspension, accompanied by a fee of fifty dollars ($50.00) if the period of suspension is less than a year, and additionally by the regular yearly renewal fee if the period of suspension exceeds twelve (12) months.

(3) All fees shall be paid by certified check or postal money order. [Acts 1971, No. 706, §27; A.S.A. 1947, §72-441.]

17-81-315. Professional titles.

(a) Each holder of a license under the provisions of this chapter shall be privileged to use after his name:

(1) Any of the following 'Doctor of Chiropractic'; 'Chiropractic Physician'; 'Chiropractor' and 'D.C.'; and

(2) The use of titles from any special certification issued through courses or seminars of instruction for professional learning by colleges, conducting or sponsoring such courses or seminars, holding status with the Council on Chiropractic Education or those titles issued in like manner, not excluding honorary titles, by instruction and sponsored by the International Chiropractors' Association or the American Chiropractic Association.

(b) Nothing in this section shall exclude the use of titles issued by colleges or universities accredited by the United States Department of Education (USDE) granting degrees such as B.S., M.S., M.A., Ph.D. or other similar degrees.

17-81-316. Chiropractic Extern Program.

(a) The Arkansas State Board of Chiropractic Examiners may establish a Chiropractic Extern Program to allow chiropractic graduates to practice in a licensed chiropractor's office until the graduate is licensed to practice chiropractic in this state.

(b) Any graduate from a chiropractic school accredited by the Council of Chiropractic Education or similar government approved organization is eligible to be involved in the extern program for a maximum of two (2) years from the date of graduation.

(c) Any licensed chiropractor may serve as a preceptor in the extern program upon satisfying criteria established by the Board.

(d) (1) Applications to participate in the chiropractic extern program as a preceptor or an extern shall be made to the Arkansas State Board of Chiropractic Examiners in writing on forms

furnished by the Board.

(2) Each preceptor shall submit a registration fee of one hundred dollars ($100.00) with the application.

(3) Each extern shall submit a registration fee of fifty dollars ($50.00) with the application.

(4) Each extern shall pay tuition of twenty-five dollars ($25.00) per month for each month the extern is participating in the extern program.

(5) Each extern shall be fairly compensated for his or her services by the preceptor.

(e) (1) Chiropractic externs may assist chiropractors in the performance of those duties that are lawful and ethical including but not limited to physical examinations, patient consultation, x-ray examinations, specific chiropractic adjustment procedures and physical therapeutic approach as appropriate.

(2) Chiropractic externs may not diagnose a condition nor prescribe a health care regimen, nor sign insurance forms or any other forms, which require a licensed chiropractor's signature.

(3) All duties of a chiropractic extern shall be performed under the direct supervision of a licensed chiropractor.

17-81-317. Reactivation of lapsed license.

(a) Any licensee who allows his or her license to lapse by failing to renew the license as provided under §17-81-311 may apply to the Arkansas State Board of Chiropractic Examiners for a reinstatement of his or her license and must submit to the Board a reinstatement fee of twenty-five dollars ($25.00) together with all back fees, plus proof of compliance with the continuing education requirements.

(b) The delinquent licensee must obtain verification from all states in which he or she has practiced indicating whether or not disciplinary action has been taken against the licensee during that period.

(c) If the licensee's license has been inactive for a period of five (5) years, as a condition of reactivation, the Board may require the licensee to enroll in and pass a refresher course approved by the Board at an accredited chiropractic college or to pass a competency exam given by the board.

ADDENDUM

Arkansas Code 25-16-905 is amended to read as follows:

25-16-905 Stipend - Authorization for $100.

Each of the following state boards may, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, authorize payment to its members of a stipend not to exceed one hundred dollars ($100) per meeting attended, and the board members shall receive no other compensation, expense reimbursement, or in-lieu-of payments except as provided in §25-16-902:

10. Arkansas State Board of Dental Examiners; and

11. Arkansas State Medical Board; and

12. Arkansas State Board of Chiropractic Examiners.

Arkansas Code 25-16-903 (17), which provided for a stipend of fifty dollars ($50.00) for the Arkansas State Board of Chiropractic Examiners, is repealed.

PREFACE TO EMERGENCY RULES OF THE
ARKANSAS STATE BOARD OF CHIROPRACTIC EXAMINERS
ADOPTED FEBRUARY 7, 2014

The redlined language in the following document identifies the additions, deletions and amendments to the Rules and Regulations of the Arkansas State Board of Chiropractic Examiners, which were adopted by the Board on an emergency basis, pursuant to Ark. Code Ann. § 25-15-204(b), on February 7, 2014.

Pursuant to Ark. Code Ann. § 25-15-204(e)(2), these changes shall be effective immediately upon their filing with the Arkansas Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, and they shall remain in effect until the earlier of the following: (a) 120 days after their effective date or (b) the effective date of the next final rule changes adopted by the Arkansas State Board of Chiropractic Examiners.

In adopting these rules on an emergency basis, the Board finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. Specifically, given the large amount of complaints that have been filed with the Arkansas Board of Chiropractic Examiners in regards to the use of procurers the Board deems it necessary to implement rules and regulations immediately pursuant to Act 513 to properly investigate and address the prevalent and ongoing problem that appears to exist.

PART ONE PRELIMINARY DEFINITIONS

A. BOARD. The Arkansas State Board of Chiropractic Examiners.

B. REGULATIONS. Those acts, statements or definitions by which the Chiropractic profession is governed or regulated in conduct, actions or practice.

C. RULES. Those procedures by which the Board exercises its authority and responsibility and conducts its affairs.

PART TWO REGULATIONS

A. APPLICATIONS FOR STATE BOARD EXAMINATIONS AND LICENSURE.

1. Pre-Professional Education Requirements.

(a) Two year college requirements after July 1, 1971. This Board construes Arkansas Statute 17-81-305(2) to mean that the two (2) years of pre-professional college study in the field of science shall not be less than sixty (60) semester hour credits (or its equivalent in quarter hours) toward a degree and be successfully completed in a recognized Liberal Arts College or University, thirty (30) hour credits of which shall be in one or more of the pure science subjects such as biology, zoology, chemistry, mathematics or other like subjects. This Board shall not accept less than a "C" average in pre-professional college.

2. Approved Chiropractic Education.

(a) Approved colleges of chiropractic. All applicants for examination for licensure to practice chiropractic in the State of Arkansas, who has matriculated at a Chiropractic College after September 1, 1971, must present evidence of having been graduated from a chiropractic college having status with the accrediting commission of the Council of Chiropractic Education (CCE), or similar criteria as determined by, and at the discretion of, this Board.

(b) This Board adopts clinical competency guidelines similar to CCE quantitative assessment delineations.

(c) This Board may disapprove any college whose academic requirements appear to be deficient in the basic science or diagnostic fields.

(d) This Board will not accept for examination any person who is not adequately trained in basic diagnostic methods and related fields, including the field of roentgenology.

(e) An applicant must possess a valid National Board certificate to include Parts I, II and the Physiological Therapeutics elective section and, on and after January 1, 1990, possess a valid National Board certificate to include Parts I, II and III and the Physiological Therapeutics elective section and include one hundred twenty (120) classroom hours of physiological therapeutics. The Board accepts the National Board Part III recommended passing score of 375.

(f) An approved applicant will be permitted to sit for this Board's examination provided the

applicant's date of graduation from chiropractic college precedes the date of the next regularly-scheduled examination by no more than six (6) months.

(g) Nothing in this provision shall be construed to supersede the current Chiropractic Practices Act, which invests this Board with the responsibility for approval of any college, which is authorized by law to issue the doctorate degree in chiropractic.

(h) In lieu of the practical examination set out in statute 17-81-306, with the exception of (a)(1)(A) in that section, the applicant may present the board with evidence of passing the National Board Part IV with a minimum score of 375 which shall be accepted by the Board as a passing grade.

3. Application to the Board for Examination or Licensure.

(a) Applicants responsible for complete credentials. It shall be the responsibility of the applicant to furnish the necessary credentials as the Board deems necessary or as required by law. Submission of credentials does not mean automatic acceptance for examination.

(b) All credentials other than the National Board Part IV score must be in the hands of the Executive Director, with a postmark no later than forty-five (45) days before the intended examination date. The National Board Part IV score must be in the hands of the Executive Director with the postmark no later than seven (7) days before the examination date. Incomplete applications will not be considered and will be returned by the Executive Director with the notation "Application Incomplete."

(c) The Board's decision at the time of the credentials survey shall be final for that examination.

(d) Effective January 1, 2008, every person applying for a license issued by the Board shall provide written authorization to the Board to allow the Identification Bureau of the Arkansas State Police to release the results of a criminal history background check to the Board. Each applicant shall complete a state fingerprint card in the presence of a law enforcement officer, and shall have that officer sign the card, giving his/her jurisdiction, the date, and his/her badge number. The applicant shall be responsible for payment of all fees associated with the background check.

(e) The Board reserves the right to take into consideration and pass upon the moral character or reputation of any applicant at any time prior to the delivery of a license. A history of narcotics violation, conviction of a crime involving moral turpitude, or of any felony, or the diagnosis of any psychiatric disorder, are among appropriate grounds for rejection.

(f) Each applicant will be notified by the Board as to his/her acceptability for examination by notice mailed not more than fourteen (14) days after the Board has met to review and pass on said applicants.

(g) Upon denial for cause, the applicant shall have the right to petition the Board for a hearing to prove his/her qualifications, with the burden of proof, at such hearing to rest with the applicant.

(h) If this Board deems it necessary, it may, at any time prior to licensure, require applicant to supply to the Board's satisfaction such further information or documents necessary to establish the applicant's qualifications.

4. **Allowance for Practice Experience.** At the Board's option, on an individual basis and by a majority vote of the Board of Examiners, to allow for practice experience in examinations, as follows:

   (a) Applicants with verifiable full time practice experience in another state, who possess the National Board of Chiropractic Examiners certification, as outlined in Section A(2)(e) and two (2) years of pre-professional college may be permitted to examination, as indicated by this Board.

   (b) Applicants graduating from Chiropractic College prior to July 1, 1971, and with verifiable full time practice experience of five years or longer, in another state, may be permitted to examination as indicated by this Board.

5. **Transfer of License.** A Doctor of Chiropractic who has continuously held an active license in good standing in another state or jurisdiction for a period of five (5) years may apply for transfer of license and licensure in Arkansas at the Board's option on an individual basis and by a majority vote, provided, the Doctor:

   (a) submits an application to the Board;
   (b) has passed either (1) the National Board, Part IV Examination, (2) the Practical Examination of the Arkansas State Board of Chiropractic Examiners, or (3) the National Board SPEC Examination;
   (c) has passed the Board's Arkansas Jurisprudence Examination;
   (d) has attended the Board's New Doctor Orientation Session, or agrees to attend the next scheduled Session and does in fact attend the Session; and
   (e) complies with all other requirements for maintaining a license in Arkansas and no other reason exists that would warrant a suspension or revocation of licensure, including CIN-BAD review.

B. PROCEDURES FOR STATE BOARD EXAMINATIONS.

1. All applicants for licensure, except as provided in statute 17-81-306 herein, shall be examined in the following subjects:

   (a) Examinations

      (1) Practice Management, Ethics and Jurisprudence
      (2) Physical/Clinical Diagnosis
      (3) Chiropractic Examination Procedures
      (4) Chiropractic Adjusting & Manipulation
      (5) X-Ray Interpretation
      (6) Chiropractic Philosophy

2. **Identity of Examinees Protected.** Where practical, and at the option of the Board, applicants shall be identified by number during examination and in grading. In this event, examinees shall place their identification number on each page of each test instead of their names.

3. **Examination Time Limits.** If applicable, a time limit shall be announced prior to each test and all test data shall be returned promptly. Credit will not be granted for answers completed after time limit has expired. Illegibly written answers cannot be accepted.

4. **Procedure during Examinations**. During a test, if clarification of a question is needed, all inquiries by the applicant shall be directed to a Board Member, privately.

5. **Notification of Test Results.** Each applicant will be notified as soon as possible after the examination as to whether he/she "passed" or "failed." "Passed" shall mean an overall average of all subjects of seventy-five percent (75%) or greater with no subject grade falling below sixty percent (60%). "Failed" shall mean either an overall average percentage of less than seventy-five percent (75%) or any subject grade falling below sixty percent (60%). Notification of pass/fail is usually within fourteen (14) days.

6. **Partial Failure of Examinations**.

   (a) If an applicant fails two (2) subjects or less, he/she may retake, at the next regular examination, provided the proper examination fee has been paid and subject to the Board's discretion, up to two (2), and no more than two (2) partial reexaminations.

   (b) All applicants who either fail three (3) or more subjects in the initial examination, or who fail to pass, as defined in Sec. 5 (above), on reexamination shall be required to take the full examination at a later regular examination period. The proper examination fee must be paid prior to the second examination.

   (c) In conformity with §17-81-305 and Board Rules & Regulations Part 2,B, (6), any applicant who fails the initial and retake examinations will be required to reapply for examination and to pay the full examination fee.

7. **Assignment of License Numbers.** Immediately following the final grading of examinations, the license numbers awarded will be announced, written on the grade sheets and the grade sheets will be signed by each Board Member.

8. **Cheating Penalty**. Any examinee using a book, paper, or other device, receiving or giving assistance to another examinee, or in any way caught cheating during the examination shall promptly be excused from the examinations. Said examinee shall forfeit all examination fees and shall not be readmitted for later examinations by this Board.

C. PROFESSIONAL CONDUCT

1. **Aiding Unlicensed Practitioners.**

   (a) It is considered unprofessional conduct as described in Arkansas Statute §72-441, paragraph (a)(6) for any licensee of this Board to aid or abet in the practice of chiropractic within the State of Arkansas, any person not licensed in this state or whose license to practice chiropractic is under suspension or revocation.

   (b) The practicing of chiropractic within the State of Arkansas as a partner, agent, or employee of, or in any other manner in joint venture with a person not licensed to practice chiropractic by this State, or any person whose license to practice chiropractic has been suspended or revoked shall be deemed unprofessional conduct.

   (c) Nothing in this section is intended to prohibit or prevent professional affiliation in any legitimate manner with duly licensed or registered institutions, hospitals, or nursing homes, or

the practicing of chiropractic in association with other health care professionals who are themselves duly licensed or registered by this State.

2. **Unprofessional acts.** The following acts or activities by a licensee of this Board are considered to constitute unprofessional conduct and grounds for disciplinary action.

   (a) Fraud in procuring a license.

   (b) The performance of any action designed to, or likely to, deceive, defraud or harm the public.

   (c) Violating any rule or law or being party to or aiding and abetting the violation of the regulations of this Board or the laws of the State of Arkansas regulating the practice of chiropractic.

   (d) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest or immoral practice:

      (i) in connection with any of the licensing requirements for the practice of chiropractic in Arkansas; or

      (ii) in connection with any communication with the Board office.

   (e) Conviction of a felony for violations of any law of the State of Arkansas, another State, or of the United States.

   (f) Habitual intoxication or personal use of unprescribed controlled or habit-forming drugs.

   (g) Practicing chiropractic while any impairment of judgment or ability exists due to the use of alcohol or other drugs which prevent the rendering of competent professional services.

   (h) Violating any term of probation or suspension.

   (i) Abandoning or neglecting a patient under and in need of immediate professional care without making suitable arrangements for the continuation of such care and, if need be, by another chiropractic physician, or the abandoning of a professional group or solo practice.

   (j) Failing to exercise appropriate supervision over persons who are authorized to render certain services under the supervision of the licensed professional.

   (k) Willfully making or filing a false report, whether it be an insurance report, death certificate, work excuse, or any other report dealing with public health, or willfully impeding or obstructing such filing of accurate data.

   (l) Using the word 'Doctor' in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate.

   (m) Direct solicitation that is false, misleading or deceptive by agents of the licensee or knowingly soliciting a patient that is already a patient of another chiropractic physician. Nothing herein is intended to prohibit public relations or advertising by the chiropractic physician or by their use of public relations or advertising firms.

(n) Negligent or reckless practice, or intentional misapplication of practice, regardless of the degree of injury to the patient.

(o) Failure to keep accurate records which reflect the diagnosis and treatment of individual patients.

(p) Sexual misconduct.

(1) Sexual Violation -- Comprises physician-patient sex, whether initiated by the patient or not, and engaging in any conduct with a patient that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: sexual intercourse; oral to oral contact except CPR; touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination by treatment or where the patient has refused or has withdrawn consent; encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present.

(2) Sexual Impropriety -- Comprises any behavior, gestures, or expressions that are seductive or sexually- demeaning to a patient of normal sensibilities; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the patient's privacy, deliberately watching a patient dress or undress, instead of providing privacy for disrobing; subjecting a patient to an examination in the presence of students, chiropractic assistants, or other parties without the explicit consent of the patient or when touching of genitals without the use of gloves; inappropriate comments about or to the patient, including, but not limited to, making sexualized or sexually-demeaning comments to a patient, comments about potential sexual performance during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual history or sexual likes or dislikes when not clinically indicated for the type of consultation, and making a request to date; initiation by the physician of conversation regarding the sexual problems, preferences or fantasies of the physician; kissing of a sexual nature.

(q) Repealed August 13, 2002.

(r) Nothing herein is intended to prohibit public relations or advertising by chiropractic physicians or by their use of public relations advertising firms as provided for under Section C, Subparagraph 2(m) and Section D. (ADVERTISING BY CHIROPRACTIC PHYSICIANS.)

(s) Paying or promising to pay, or leading any person to reasonably believe that they would receive any consideration or anything of value in an attempt to induce such person or minor under such person’s guardianship or parental control to present to the office of a chiropractic physician as a new patient; or if already a patient, in connection with any incident of injury that is or may be the basis of an insurance claim. This provision explicitly includes inducements made through an agent, procurer, contractor, or employee; this provision does not prohibit informing members of the public that a chiropractic physician provides transportation for treating patients.

(t) Failure to conform to the Universal precautions for preventing the transmission of Human Immuno-deficiency Virus and Hepatitis B Virus to patients during exposure prone invasive procedures.

(u) Failure to respond as required to any communication duly served by the Board upon a licensee.

3. **Misrepresentation, Fraud, Deception.** Any of the following claims made by a doctor of chiropractic, either directly or indirectly, may constitute deception, fraud, misrepresentation, or be misleading:

   (a) Claims that a chiropractic physician's professional qualifications differ from his or her actual qualifications.

   (b) Claims that a chiropractic physician is affiliated with any institution, organization or individual, if the misrepresentation is not fact.

   (c) The use of any title, other than that designated by law or regulation, to identify one as a chiropractic physician.

   (d) False, deceptive or misleading claims relating to professional qualifications or credentials.

4. **Improper Charges, Fraud.** Improper charges constitute a form of fraudulent and deceptive practice. Without limiting the definition of improper charges, the following may be considered improper:

   (a) Increasing charges when a patient utilizes a third-party payment program.

   (b) Reporting incorrect treatment dates for the purpose of obtaining payments.

   (c) Reporting charges for services not rendered.

   (d) Incorrectly reporting services rendered for the purpose of obtaining payment, which is greater than that to which he/she is entitled.

   (e) Announcing to the public, individually or through advertising, marketing, or public relations efforts, prior to the rendition of services, that payment made by an insurance carrier or a third-party payer with co-payment or deductible features will be accepted by the licensee as payment in full, or reduced payment, unless if, at the time the billing is made, licensee discloses such agreement, services rendered and the amount billed for each service to both the patient and insurance carrier or third-party payer. This disclosure must be made on the face of the statement, or on a label affixed to the statement, by type printed or stamped in legible characters of at least ten (10) points in height. Provided, however, that this subsection shall not prohibit a discount, credit or reduction of charges provided under an agreement between the holder of a license and an insurance company, health service corporation or health maintenance organization licensed under the laws of this State; or governmental third-party payment program; or self-insurance program organized, managed or funded by a business entity for its own employees or labor organization for its members.

   (f) Raising fees for the purpose of overcoming the deductible provision of an insurance contract.

   (g) Overutilization of practice. This is construed to be treatment, which is excessive in quality or quantity to the needs of the patient, it being recognized that individual patients require varying and specifically individual treatment programs.

D. ADVERTISING BY CHIROPRACTIC PHYSICIANS. Advertising by chiropractic physicians should be dignified, ethical and professional, not necessarily limited to, but preferably of an educational or informative nature or as a statement of basic fees. Chiropractic physicians have the

sole responsibility over the employees or agents hired, including those hired for advertising/marketing purposes.

1. Advertising/marketing by doctors of chiropractic should conform to professional standards, and shall be truthful and not misleading, deceptive, fraudulent or dishonest.

2. Advertising of x-ray services restricted. Unnecessary exposure to x-rays or other ionizing radiation is considered by all reputable health agencies and organizations to be potentially hazardous to the public. Lay persons generally lack the technical knowledge to determine the need for x-ray examination and must rely upon the training, knowledge and judgment of the attending physician. This Board therefore considers it to be unprofessional and not in the public interest for chiropractic physicians to over-utilize x-ray services. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x- radiation is prohibited.

3. Misleading the public by advertising/marketing or otherwise publicizing a list of various diseases as being universally curable is prohibited.

4. Limitations to advertising/marketing free or reduced charges. The offering by doctors of chiropractic in advertisements or other solicitations to the public of initial services at no charge or at reduced charges shall be considered misleading or untruthful if, at the time of such advertised no-charge or reduced-charge visit.

   (a) Charges are made to the patient's account for services not specified in such advertisement or solicitation and which are provided on the same visit or same day and are hidden to the patient or not explained in advance to the patient.

   (b) The patient and any other person responsible for payment has the right to refuse to pay or cancel payment or be reimbursed for payment for any service, examination or treatment which is performed as a result of and within 72 hours of responding to advertising for free service examination or treatment unless before any service, examination or treatment is provided that patient and any other person responsible, for payment enters into a written agreement consenting to be charged, for said service, examination or treatment.

   (c) Nothing in this regulation is meant to prohibit or restrict the rendering of emergency or acute care provided the above restrictions are observed.

5. Any person licensed by this Board may not state or imply by media or printed matter that said licensee is practicing any procedures not included in the Chiropractic Practices Act.

6. No person licensed by this Board may state or imply by any advertising or printed matter that said licensee is practicing any other licensed, regulated or recognized profession unless said licensee is actually qualified and, where required, licensed or registered to practice such other profession. (Example: A licensee may not list 'physical therapy' unless said individual is also licensed as a Registered Physical Therapist.)

7. Limitations to advertising series treatments. All health care professions recognize that treatment needs vary for different conditions and treatment plans must be individualized according to the specific needs of each patient. This Board therefore interprets it to be deceptive advertising for a chiropractic physician to advertise or otherwise solicit for patronage in any manner which states

or implies a standardized approach for different conditions, or otherwise may be construed to imply that a standard of care is being offered which is either below or in excess of that actually required by the patient. (Example: An advertisement reading similar to "20 treatments for $xx.xx" might be considered over-utilization of care for a simple muscle strain).

8. Testimonial advertising. The use of testimonials, whether single or in groups; summaries of type of treatment; or examples of treatment as used in the advertiser's office carry with them an implication that the conditions described in the advertisement have been or will be helped by the practitioner. Therefore, before an advertisement is produced, distributed, or displaced, a practitioner who requests from a patient a testimonial to the treatment or modalities used by the practitioner must obtain written consent and have a signed release form from the patient to be kept in the patient's file. The patient has the right to review the advertisements that use the patient's statements, likeness, or case summaries before the advertisements are released for production, distribution, or displaying. Statements made by patients that are untruthful or misleading may not be used even if the patient made the statements.

9. Telephone communication including advertising/marketing. Any agent communicating with a prospective patient on behalf of a chiropractic physician shall disclose how the agent obtained the prospective patient's information. The agent must communicate his or her legal name and the name of the particular chiropractic physician on whose behalf the communication is being made, that he or she is an agent of the particular chiropractic physician. Unless such communication of the agent is true and evidence of the same is on file with the Board, the agent shall not state that he or she practices or is employed as attorney, insurance adjuster, chiropractor, and is not employed in the fields of law, health care, law enforcement, private investigation, or insurance.

   (a) When direct in-person solicitation is made by an agent or employee of the chiropractor, in addition to the requirements set forth in paragraph 9, the agent or employee shall show the person being solicited a photo ID with their legal name and the name of the chiropractic physician on whose behalf the solicitation is being made, and shall dispense a professional card bearing his or her legal name, and the name, address, and telephone number of the licensed chiropractic physician on whose behalf the solicitation is being made. Such professional card shall be provided to the person being solicited at the beginning of the encounter, and shall be left with the person regardless of whether the person being solicited accepts the solicitation request.

   (b) The licensee employing an agent for purposes of soliciting new patients is responsible to the Board for the content of the contact, including prohibited statements made or required statements not made, as well as for any action that is foreseeable in a telephone or in-person encounter.

      (1) Telephone solicitation/marketing of victims of accidental injury and which are conducted on behalf of chiropractic physicians shall be made in substantial conformance to a written script which is considered by the Board to have been specifically approved by the chiropractic physician. The chiropractic physician shall be required to maintain such scripts for a period of two (2) years following their utilization. Scripts are to be made available for review upon request by this Board or its designee.

      (2) Agents of chiropractic physicians who solicit victims of accidental injury shall keep a log of all solicitation calls made, including at minimum the name and phone number of the person being solicited, the date and time of the phone call.

E. PROFESSIONAL PRACTICES.

1. Temporary Licenses.

(a) Temporary Licensee Requirements and Privileges.

(1) Credentials shall include a completed approved application, including all necessary validated documents, a final chiropractic college diploma from a chiropractic school or college holding status with the council on chiropractic education or similar standards as provided in section 2(a), Article A herein and such other information as this Board deems necessary. Applicant must complete a Jurisprudence Examination before approval for a temporary license will be granted.

(2) The temporary license to practice shall expire at the next scheduled examination. The license is not to exceed six months, and is renewable by majority vote of the Board.

(3) After a temporary license holder has received approval from the Board, he may perform any acts or practices that a licensed Arkansas Chiropractor may do, as long as it is under the supervision of the supervising Chiropractor who must remain on the premises when these acts or practices are being performed. (Act 1971 No. 706.P.1392) Statute 72-415 - 72-441.

(4) Upon satisfactory evidence being submitted to the Board as to an applicant's ability and integrity and when no regular examination will be held within thirty (30) days from the date of an application for a temporary license, the board may, if approved by at least two-thirds (2/3rds) of the membership of the Board, issue to the applicant a permit to practice until the next regular meeting of the Board.

(5) If any temporary license holder is found practicing outside the scope of this certification, the sponsoring doctor, and the temporary license holder will be subject to application of Arkansas Statute 72-441.

(b) Supervising Doctor's Requirements.

(1) The supervising doctor must have an active Chiropractic license of 3 years or longer.

(2) The supervising doctor must not have had any disciplinary action levied against him by any Board in the past 5 years.

(3) This supervising doctor may have no more than two (2) temporary license holders under his direct supervision at one time.

(c) The Board may, at its discretion, issue a temporary license to a Doctor of Chiropractic who holds a current license in another state, to practice in Arkansas until his next scheduled examination and exempt him/her from any supervisory requirement, pursuant to section E(1)(c).

2. Chiropractic Aides.

(a) The chiropractic aide may not render any diagnosis, submit treatment plans to patients, or

in any other way assume responsibility for the management of patient care.

(b) The chiropractic aide may not render any manipulative adjustment treatment or spinal mobilization.

(c) The chiropractic aide may perform specific testing procedures and/or adjunctive therapeutics under the order, direction and responsibility of the supervising doctor.

(d) Chiropractic aides must obtain a Radiologic Technology License through the Arkansas Department of Health to perform x-rays. The Consumer-Patient Radiation Health and Safety Act, Act 1071 of 1999, requires that individuals who use radioactive materials or medical equipment emitting or detecting ionizing radiation on human beings for diagnostic or therapeutic purposes, be licensed to do so.

(e) In lieu of obtaining a Radiologic Technology License under subpart (d), chiropractic aides may obtain certification through the American Chiropractic Registry of Radiological Technologists (ACRRT) program upon successfully completing a course of instruction consisting of didactic classroom hours and examination. The course must be recommended by the Board. ACRRT recertification requires a minimum of 6 hours of continuing education administered by a state or national organization approved by the Board for this purpose.

3. Continuing Education. In compliance with provisions of the Arkansas Chiropractic Practices Act, each licensed Doctor of Chiropractic, practicing in this state, must submit to this Board each year evidence of having satisfactorily completed not less than twenty-four (24) hours of continuing education, acquired during the preceding twelve (12) months, at some approved college of chiropractic or at some approved educational seminar. This may include specific courses of instruction, including up to twelve (12) hours of preapproved videotaped education, with on-site Board member supervision, pertinent to the practice of chiropractic, or courses conducted by the Board.

(a) Courses or seminars conducted by colleges holding status with the Council on Chiropractic Education (CCE), or those courses or seminars sponsored by state or national associations will generally be approved, provided that both the course content and the instructional staff are in compliance with CCE and this Board's criteria.

(b) Courses or seminars taught in conjunction with, or in association with, and not sponsored and managed by an approved college or association, with their regular faculty and post-graduate instructors, will not be approved.

(c) Itinerant or for-profit courses or those conducted by commercial enterprises will not be approved unless conducted by an association approved by the Board for the teaching of scientific courses pertaining to the profession.

(d) Approval of continuing education programs which are not approved by the Council on Chiropractic Education nor conducted by approved Chiropractic Colleges, State or National Organizations, shall meet the following criteria**:**

(1) To allow for a maximum of twelve (12) credit hours.

(2) Courses or programs must be approved by the Board in advance.

(3) The course, program, or seminar must be conducted by a recognized and reputable school, university, hospital, organization or interdisciplinary organization.

(4) Speakers or lecturers must be recognized as having expertise in the field of study.

(5) Course work must be at the physician level.

(6) Content of the program must be scientific, recognized by reputable authorities as having validity, and related to the practice of Chiropractic.

(7) Program or seminar must not be offered by a group or commercial enterprise, which primarily promotes specific products, services or equipment. A commercial enterprise may request approval of a seminar but the course contents and lecturer's expertise would be carefully scrutinized.

(8) Approval of a course is for a one-year period and re-application must be made each year. Approval may be withdrawn at any time if intent of the law and regulations of this Board are not complied with.

(9) If a commercial enterprise requests approval by this Board, it must consent to permit attendance at the seminar by an investigative committee of this Board at no cost to the Board, including travel and other necessary expenses.

(e) All continuing education courses must have prior approval by this Board before credit can be given.

(f) Continuing Education Sponsor Processing Fee. In addition to meeting the requirement set forth for approval of continuing education programs, sponsors shall remit a five dollar ($5) processing fee per every credit hour of instruction for each seminar per subject material, per calendar year to be submitted with the information required for program approval.

(g) Distance-based learning courses offered by electronic media in audio and/or visual format, such as through the Internet, which otherwise comply with these rules may be approved by the Board if the course meets the following criteria:

(1) The sponsor, organization or participant must have preapproval through the regular continuing education process for the State of Arkansas.

(2) The course must be test and time monitored to insure active participation by the licensee. The Internet education provider should provide a mechanism for verifying participation in the course.

(3) A maximum of twelve (12) distance-based learning credit hours may be submitted by a licensee during each licensing period.

4. Interpretation of Terminology.

(a) Examination. This term is understood by this Board to be the act or process of examining the body to determine the presence or absence of disease or injury or to arrive at a diagnosis. It encompasses, but is not limited to, historical, physical, clinical, chemical, electrical or

roentgenological means necessary to arrive at a diagnosis or analysis of any malady or abnormality of human beings. It does not include incisive surgery.

(b) Analysis. This term is construed by this Board to mean and encompass the gathering and sorting out of certain physiological data, whether of a whole or a material substance, or any matter of thought, whether from history gathering to help determine the nature of disease, injury, deformity or any other abnormality whatsoever, an examination of symptoms, lesions, of body fluids and tissues for the purpose of diagnosis of any disease process, injury or abnormality of human beings.

(c) Diagnosis. This term is understood by this Board to mean the use of scientific and skillful methods to establish the cause and nature of a sick person's disease, malady, injury or deformity. It encompasses the evaluation of the history, the signs and symptoms present, laboratory data, and the use of special tests such as x-rays or other analytical instruments.

(d) Supportive Procedures. Those procedures that do not conflict with the Arkansas Chiropractic Practices Act and which aid the chiropractic physician in removing interference with the transmission or expression of nerve force in the human body for the purpose of restoration and maintenance of health. The option to use supportive procedures shall be left to the judgment of the individual chiropractic physician and shall not be required.

(e) Ownership of x-rays, photographs and medical records. This Board confirms judicial decisions that x-rays, photographs and medical records belong to the doctor, clinic or institution originating such records. (McGarry v. J.A. Mercier Co., 272 Mich. 501, 262 N.W. 296 MLC 1936-40, P. 46 (1935).)

5. Acupuncture.

(a) A chiropractic physician licensed to practice chiropractic pursuant to the Arkansas Chiropractic Practices Act shall be entitled to practice acupuncture as part of chiropractic practice upon completion of one hundred (100) hours training in acupuncture/meridian therapy from a college accredited by the Council on Chiropractic Education.

(b) Prior to any chiropractic physician engaging in the practice of acupuncture/meridian therapy, said physician shall be required to submit to the Board of Examiners a certificate of completion of one-hundred (100) hour's instruction in acupuncture/meridian therapy.

6. License Renewal, Continuing Education and Forfeiture.

(a) Each Arkansas chiropractic license expires on December 31 of each year. If the license renewal fee is not postmarked by December 31 with a completed Renewal License Application and attachment of proof of continuing education, the license shall automatically expire and be forfeited.

(b) The renewal fee must accompany all Renewal License Applications. License renewal will not occur without receipt of the prescribed fees. Beginning with the renewal fee for the December 2014 renewals for In-State Active licensees shall be $250.00. Renewals for In-State Inactive licensees shall be $100.00. Renewals for Out-of-State Active licensees shall be $125.00

(c) An individual who submits a Renewal License Application more than sixty (60) days after the

license expiration date is subject to all requirements governing new applicants under the Arkansas Chiropractic Practices Act. The Board may grant extensions for the continuing education requirement and/or late license renewal based upon the Board's opinion that extreme circumstances prevented timely license renewal. It is illegal to practice in Arkansas with a forfeited license.

(d) Beginning September 1, 2014, the license renewal period will begin annually on September 1 and will be open until December 31 of the same year.

PART THREE RULES OF PROCEDURE

A. **BOARD MAY INVESTIGATE COMPLAINTS.** This Board shall have the right and responsibility, as provided by law, to investigate complaints, allegations or suspicions of violations of the Arkansas Chiropractic Practices Act or of these Regulations.

B. **METHOD FOR HEARINGS.** All hearings before the Board shall be conducted according to the Arkansas Administrative Procedure Act, Ark. Stat. Ann. #5-701, et seq., with the following additions:

(1) Notice.

(a) Except as provided in Section 2, whenever the Board contemplates taking disciplinary action, it shall serve a written notice upon the licensee at least thirty (30) days before the action is taken. This thirty (30) day requirement may be waived upon agreement of both parties.

(b) The notice shall include a Statement of the Facts or conduct upon which disciplinary action is contemplated and shall inform the licensee of his right to a hearing and state the time and place where the hearing is scheduled. The notice shall also inform the licensee that continuances will be granted only for good cause and that if the licensee fails to appear at the hearing and has not obtained a continuance, then the Board may conduct the hearing in the licensee's absence.

(c) The notice shall be issued in the Board's name and shall be signed by the President, Executive Director, or the Board's Attorney.

(d) The notice shall be served either personally by registered or certified mail addressed to the licensee's current business address on file with the Board. If personal service is used, it may be proven by affidavit or testimony of the server and shall be deemed served on the date delivered. When service is by mail, it shall be deemed served on the date borne by the return receipt showing delivery, refusal, or inability to deliver.

(2) Emergency Action. Notwithstanding Section 1, if the Board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

(3) Continuances. A continuance shall be granted only for good cause.

(4) Failure to Appear. If a licensee, after being served notice, fails to appear at the time and place where the hearing is scheduled and has not obtained a continuance, then the Board may

conduct the proceedings without the licensee being present.

(5) Presiding Officer. The President shall be the Presiding Officer at all hearings, except if the President is unavailable, then a majority of the Board members present shall select a Presiding Officer from among themselves present. A Hearing Officer may be appointed by the Executive Director of the Chiropractic Board to act as an impartial Hearing Officer at any disciplinary hearing. The Presiding Officer shall have power to:

(a) issue subpoenas;
(b) administer oaths and affirmations;
(c) maintain order;
(d) rule on all questions arising during the proceedings;
(e) permit discovery by deposition or otherwise;
(f) hold conferences for the settlement of simplification of issues;
(g) make or recommend decisions;
(h) generally regulate and guide the course of the pending proceeding.

(6) Decisions. A final decision shall be in writing or stated in the record. It shall include findings of fact and conclusions of law, separately stated. Parties shall be served either personally or by mail with a copy of any decision or order within a reasonable time.

(7) Authority of Board. If the information contained in the Complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.

C. INFORMAL DISPOSITION OF COMPLAINTS.

As provided by the Arkansas Administrative Procedures Act, nothing contained herein shall prohibit informal disposition of complaints or allegations by settlement, consent or agreement of parties.

D. COMPLAINT HANDLING PROCEDURES.

(1) Complaints against Chiropractic physicians may be made by letter, in person, or by telephone call to the President, Secretary or Executive Director of the Board of Examiners.

(2) All complaints shall be logged in a special record, which shall be updated as necessary to indicate the current status of all complaints.

(a) The subject of the complaint will receive notification and a copy of the complaint. He/she will be given ten (10) days to submit a response in writing to the Board office.

(b) Failure of the (subject) of any and all complaints to cooperate may be considered unprofessional conduct and will be taken into consideration by the Board investigator and Board attorney.

(3) Said complaints may be investigated by one or more of the Board members or agents of the Board. Informal disposition may be attempted by settlement, consent, agreement, or for lack of sufficient probable cause if, in the opinion of the Board, such disposition is warranted by the

circumstances.

(4) Any and every complaint making out a prima facie case shall be presented to and reasonably disposed of by the Board, giving due consideration to sufficient and necessary time to investigate and consider the complaint. Upon completion of an investigation, the designated Board investigator and Board's Attorney together shall determine whether a disciplinary hearing shall be scheduled to resolve the issue.

(5) Disciplinary hearings may be conducted either on the Board's own motion or based on a written complaint if a violation of the Chiropractic Practices Act has been discovered.

(6) All complaints not investigated and all complaints investigated but determined to not substantiate the charges shall be reported to the Board quarterly.

(7) If the information contained in the complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.

(8) Notwithstanding any of the foregoing, any complaint received by the Board that involves a procurer as defined in A.C.A. 17-81-107(a)(1)(A) and (B), imperatively requires immediate action and special handling; for all such complaints, the following provisions shall apply:

(a) If the complaint is not received in writing, as set forth in Part III(D)(1), the person receiving the complaint shall without delay reduce the complaint to writing, stating at minimum, the date, the name, address and phone number of the person making the complaint; the name of the allegedly offending licensee and/or procurer; a fair summary of the facts upon which the complaint is based; and, any demand for relief or specific request for an act of the Board. A complaint reduced to writing is for all purposes the equivalent of a complaint received in writing.

(b) Each written complaint shall be signed by the person receiving the complaint and distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.

(c) Within three business days of the distribution of such complaint, the Board shall initiate the service of notice upon the licensee in accordance with Part III, (B)(1)(a)-(d); a copy of the complaint and any additional information in custody of the Board may, in the discretion of the Board, be provided to the appropriate law enforcement agency for investigation and possible prosecution pursuant to A.C.A. 5-37-505 and 506.

(d) The notice of complaint shall provide the licensee with a copy of the written complaint as distributed, and shall advise the licensee that (a) the complaint that has been made against the licensee involves a procurer; (b) his or her response to the complaint is due within 10 business days of service; and (c) that a copy of the notice of complaint and any supporting documents may be provided to the appropriate law-enforcement agency for investigation and appropriate action.

(e) Upon receipt of the response of the licensee, the date of the response is noted, and the response shall be distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.

E. **AMENDMENTS TO RULES AND REGULATIONS.**

These rules, regulations and definitions may be modified, added to or deleted as deemed appropriate by the Board of Examiners in the method prescribed for such charges by the laws of the State of Arkansas.

F. **ANNUAL/RENEWAL-FEE.**

(1) The annual renewal fee for a license issued by the Board shall be $250.00.

(2) If a license automatically expires and becomes forfeited pursuant to Ark. Code Ann. Sec. 17-81-311 for failure to timely pay the annual renewal fee, the license may be reinstated by the Board upon payment of the delinquent fee due and a penalty of $200.00 for reinstatement, in addition to satisfying the Board in compliance with the education requirements.